

Minutes of the Meeting of the Pharmacy Practices Committee (PPC)

Held on Thursday 4 November 2021 at 09:30 via Microsoft Teams

The composition of the PPC hearing at the meeting:

Chair: George Gordon

Committee **Lay Members appointed by NHS Lothian**

Brian McGregor

Stanley Howard

Pharmacist Nominated by Area Pharmaceutical Committee included in the Pharmaceutical list

Gordon Stuart

Pharmacist Nominated by Area Pharmaceutical Committee not included in the Pharmaceutical List

Judie Gajree

Observers Shamin Aktar, PPC Chair

Secretariat Jenna Stone, Committee Secretary, NHS National Services Scotland
Liz Livingstone, PCCO Support, NHS Lothian

1. Application by David Stevenson

- 1.1. There was submitted an application and supporting documents from David Stevenson “the Applicant” dated 14 March 2016 to have their name included in the Pharmaceutical list of NHS Lothian Health Board in respect of a new pharmacy at 25 Main Street, Mid Calder, West Lothian, EH53 OAW.
- 1.2. The original hearing (“Original PPC”) was held on 17 October 2017 at which the PPC approved the Application.
- 1.3. In a National Appeal Panel (“NAP”) Decision dated 13 February 2018, the Committee was asked by the NAP Chair to reconvene and reconsider the Pharmaceutical Car Services Plan (“PCSP”) and the Consultation Analysis Report (“CAR”) and other matters referred to in Schedule 3,

Paragraph 3(1) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 as amended.

- 1.4. The PPC reconvened on 15 May 2018 (“Second PPC”) and issued an amended Decision to approve the Application.
- 1.5. The Decision of 15 May 2018 was subject to an appeal and a further NAP Decision dated 29 November 2018 requested that the PPC reconvene to include a summary of the CAR and also to provide an explanation of how the CAR had been taken into account in arriving at the PPC’s Decision.
- 1.6. The PPC reconvened on 28 August 2019 (“Third PPC”) and issued an amended Decision to approve the Application
- 1.7. The Decision of 28 August 2019 was subject to a further appeal. In the NAP Decision dated 10 September 2019, the Chair of the NAP concluded that there had been a procedural defect and the PPC had two options
 - (a) To reconvene the original members of the PPC, address the issues set out in the Decision of 28 August 2019 and to issue a revised Decision
 - (b) To consider a new application.
- 1.8. Since the original PPC members were no longer available to attend, it was agreed that the PPC would consider a new application. The PPC convened on 13 April 2021 (“Fourth PPC”) and issued a Decision to support the Application.
- 1.9. The Decision of 13 April 2021 was subject to an Appeal. In the NAP Decision dated 31 July 2021, the NAP Chair remitted the matter back to the PPC to consider and it was agreed that the PPC would be reconvened on 4 November 2021. It was agreed for the PPC to convene on 4 November 2021 (“Fifth PPC”)

2. Supporting Documentation

- 2.1. Papers provided to the Fifth PPC constituted on 4 November 2021 included the Consultation Analysis Report dated January 2016 and all supporting papers that had been included in the Fourth PPC held on 13 April 2021 together with additional supporting documentation and information from the Applicant and Interested Parties which had been provided to the PPC held on 13 April 2021 following an invitation from the Chair that they may wish to refresh or update their representations or

comment on any material changes to the neighbourhood which might, in the view of the parties, be relevant to the findings of the CAR.

3. Procedure

- 3.1. The Chair stated that proceedings would be recording in MS Teams for the purpose of the minute and would be deleted when the Minute had been completed. Following the conclusion of the discussion, the non voting members would be requested to leave in order that a Decision could be made by the voting members of the PPC. All present confirmed they had no objections and were content to proceed.
- 3.2. The Chair acknowledged the attendance of Shamin Aktar, a PPC Chair, as an Observer to the hearing.
- 3.3. The Chair stated that the Secretariat was independent of NHS Lothian and would play no formal part in the proceedings. In addition, the Chair confirmed that the Observer would also play no formal part in the proceedings.
- 3.4. The Chair noted that the services of Stuart Holmes of Central Legal Office had been retained. S Holmes would not be in attendance but would be available via teleconference if any legal advice or interpretation was required.
- 3.5. All parties confirmed that they had no conflict of interest.
- 3.6. All parties confirmed they had received all the relevant paperwork.

4. NAP Decision of 31 July 2021

- 4.1. The Chair referred to Section 4.20-4.22 of the NAP Decision dated 31 July 2021, the NAP Chair had concluded that the PPC had made an error in law when considering whether existing services were adequate (paragraph 5.1 of the NAP Decision) The NAP Chair had stated that the PPC was required to consider whether there was evidence of inadequacy, not whether there was evidence of adequacy. Accordingly, the NAP Chair remitted the matter back to the PPC to consider (paragraph 5.2 of the NAP Decision).
- 4.2. The NAP Chair recommended that the PPC should reconsider the evidence, even though only one appeal point had been successful, and reissue its Decision, which should cover all areas of the legal test.

- 4.3. The NAP Chair also noted that if the PPC took the view that it's comments on the Neighbourhood remained valid, there was no reason not to state that.
- 4.4. In addition, the NAP Chair also requested that the PPC
- (i) address the concerns of the Appellants in relation to the questions of accuracy of information on which they had based their Decision
 - (ii) clearly explain how they reached the factual conclusions that they did, and
 - (iii) if in considering any of these the conclusions the PPC formed the view that they had drawn an inaccurate factual conclusion after reconsidering the evidence, they should confirm this and make clear whether this would have altered their Decision.
- 4.5. The Chair informed the Committee that the NAP Chair had noted that the following grounds of appeal were considered to have no prospect of success:
- 4.5.1. That the CAR was out of date, since the Application had been treated as a new application for the purposes of the hearing on 13 April 2021 and that a new consultation should have been carried out and a new CAR prepared.
- 4.5.2. The CAR did not identify the residents responding to the CAR to allow consideration of their representation of the neighbourhood
- 4.5.3. Whether the Applicant was acting as a paid advocate for third parties with a financial interest in the application
- 4.5.4. Various concerns about the interpretation of the facts by the PPC and reliance on evidence which the Appellants considered irrelevant – eg palliative care services, Sunday hours, secure disabled parking, effect of the Covid-19 pandemic.

5. Factual Inaccuracies Highlighted by the Appellants

The Chair read out extracts from the Appellants letters.

- 5.1. **Use of wholesalers: STATEMENT**– “On page 48 of the minutes, it was highlighted that “the committee noted that as an independent pharmacist, Mr Stevenson, unlike Boots and Lloyds who use their own wholesalers, should not be restricted for pharmaceutical products”. This information is incorrect as it is mainly manufacturing that is unable to supply products or put quotas on products which impacts all pharmacy

businesses [www.cps/nhs-services/remuneration/drug-tariff /shortages-information.](http://www.cps/nhs-services/remuneration/drug-tariff/shortages-information)”

- 5.1.1. The PPC noted that, generally, the supply chain had been impacted by BREXIT in relation to raw materials that were sourced from Europe that were required to make some products (eg inhalers)
- 5.1.2. The PPC note this as a minuting error in the Minutes of the PPC held on 13 April 2021.
- 5.2. **J Gajree comment STATEMENT**– “It is stated on page 48 of the Minutes that J Gajree highlighted that “old ladies do not want a delivery services because this is a time for them to talk to people in the community, the human element cannot be ignored”. This statement is a personal point of view that has been made in a professional regulated environment with no data to support this statement and should not have been considered by the committee.”
- 5.2.1. J Gajree acknowledged she had made a personal observation and that there was no supporting evidence. However, although it was a personal view, the PPC noted that this did not alter their Decision.
- 5.3. **East Calder Pharmacy Systematic Changes STATEMENT**– “The Committee noted that “although East Calder pharmacy has made many systematic changes recently, they advised the committee that they cannot refit the pharmacy at present and as a result, recognise that the pharmacy space may be inadequate for the growing population”. (page 55) This statement is untrue, during the hearing Lindsay and Gilmour explained the systematic and dynamic changes they had made including changes in procedure, additional resources, and technology and also commented on why we felt that Mid Calder proposed premises was not fit for purpose (page 34). At no point did Lindsay and Gilmour state their space was inadequate.”
- 5.3.1. The PPC acknowledged that Lindsay and Gilmour had noted the changes that they were making to systems including the way prescriptions were handled, delivery services, ways of working, and that they had also invested in digital technology, but they had also confirmed that that their premises in East Calder could not be refitted at present (page 34 of 13 April 2021 minutes).
- 5.3.2. The PPC discussed the situation in April 2021 where 2m social distancing was required, with queues outside many shops. The PPC noted the proposed and current planning developments in the Calder

area, and the growing population, and noted the additional strain on pharmaceutical services that were currently provided by the other pharmacies. The PPC commented that it was not clear whether the changes made by Lindsay and Gilmour had improved services in Mid Calder.

- 5.3.3. The PPC dismissed the Appellant's suggested factual inaccuracy. Whilst acknowledging that although Lindsay & Gilmour had not stated that their premises **were** inadequate due to the fact that they were unable to conduct a refit, the PPC stood by their statement on page 55 that they recognised that the pharmacy space **may** be inadequate for a growing population since Lindsay & Gilmour were unable to refit their premises following the systemic changes.
- 5.4. **East Calder DDA compliance inadequacies** – “The Committee also noted that “East Calder pharmacy had a step and a narrow door, highlighting that they nearest pharmacy was not DDA compliant and inadequate” (page 55) Again, this is untrue the Lindsay and Gilmour pharmacy is East Calder has no step into the pharmacy and the door frame is electronic opening and closing wide enough for a wheelchair and pram access.”
- 5.4.1. The Chair acknowledged his role as the Disability Spokesperson for the City of Edinburgh Council and noted that DDA compliance included consideration of the external route into the premises and internal space within the premises for wheelchairs to turn, and sufficient seating for people who needed to sit. The Chair acknowledged he had visited the Lindsay & Gilmour premises and emphasised that although the pharmacy had an electric door, the access to the premises was hindered by it being so close to a pelican crossing immediately outside the front door. Therefore, although there was an electric door, it did not fully meet the DDA compliance requirements due to the challenge of access for the route into the premises.
- 5.4.2. The Chair acknowledged that although the Applicant's premises did not meet DDA compliance requirements either, the Applicant had provided verbal assurances that he would add a ramp and internal steps in order to ensure there was level access and be DDA compliant.
- 5.4.3. It was also noted that although the proposed premises did not currently have a disabled parking space, the PPC were satisfied with statements from the Mid Calder Community Council representative, who had confirmed that the Applicant's application would be approved prior to the

shop fitting being completed, in order to ensure the necessary disabled parking space was approved.

- 5.4.4. The PPC dismissed the Appellants' suggested factual inaccuracy and reaffirmed their previous statement that the East Calder premises were not DDA compliant due to the challenge of access route into the premises.
- 5.5. **Face to face vs NHS Near Me** – “The Committee refer to the pharmacy first as a service designed for face-to-face consultation (page 51) However the committee do not discuss that when the service was rolled out that the government encouraged the use of technologies such as Near Me to deliver the pharmacy first service due to covid restrictions resulting in face-to-face consultations not being allowed to take place.”
- 5.5.1. The PPC noted that at the time of the PPC of 13 April 2021, Scotland had been in full lockdown.
- 5.5.2. It was noted that although Pharmacy First and Near Me services had been rolled out, not all members of the public had access to digital technology to access the services, and, due to the challenges to obtain a GP appointment, an option of a face to face appointment at their local pharmacy was therefore more significant, especially for elderly citizens. The PPC discussed the Near Me service and had considered the demographics in a locality and how services could be delivered to the community.
- 5.5.3. The PPC noted that in the event a patient was unable to access Pharmacy First and Near Me services, and if they were unable to have a face to face consultation, they could telephone and get a prescription delivered. The Committee also noted the Community Council's statement that they had started their own prescription collection and delivery service prior to the pandemic, due to the pressures that the other pharmacies were under to deliver items timeously.
- 5.5.4. The PPC dismissed the Appellants' assertion of factual inaccuracy. The PPC stated that whilst they recognised the importance of digital technology, not everyone had access. The PPC emphasised the value and significance of Face to Face consultations for individuals who did not have access to digital technology.
- 5.6. **NHS Lothian Pharmaceutical Care Services Plan** – “There are 8 pharmacies in a 3.5mile radius, providing extended hours, palliative care services, collection and delivery, substance misuse, pharmacy first, and

vaccinations – East Calder is only 1 mile away. The Pharmaceutical Care Services Plan clearly demonstrates that there is adequate pharmacy provision in the Mid Calder area.”

- 5.6.1. The PPC reiterated the point made on page 54 of the minutes of 13 April 2021 that at Section 3.2 of the Pharmaceutical Care Services Plan, and although it stated that there was no standard as to the number of the population that should be served by a pharmacy, West Lothian had the highest population per community pharmacy (5548) in NHS Lothian and it was noted that this was higher than the Scottish national average figure of 4230 patients per pharmacy, equating to a difference of more than 25%.
- 5.6.2. The PPC dismissed the Appellants’ assertion of factual inaccuracy. The PPC confirmed that they had taken full account of the Pharmaceutical Care Services Plan and that although nowhere within it did it state that there was any inadequacy within NHS Lothian, independent contractors were welcome to apply and each application was considered on an individual basis.
- 5.7. **Adequacy STATEMENT**– “The committee on Page 51 & 56 make reference to the New NHS Pharmacy First Service and the relevance of ‘direct consultation and advice’. It should be noted that throughout this Pandemic Community Pharmacies have kept their doors open and meet the needs of the local communities’ face to face and by using new tools/enables such as NHS Near Me and through existing methods such as delivery services and telephone consultations. Whilst it may be more beneficial to have a face-to-face consultation, many factors can influence the type of consultation you have e.g. housebound patient. During the meeting it was noted that no inadequacies from patients accessing Pharmaceutical Services in the eight existing pharmacies was presented nor could the applicant demonstrate any evidence of any complaints about the eight existing pharmacies supporting the neighbourhood, clearly showing there is in fact no inadequacy in Pharmaceutical Services to the neighbourhood. Furthermore, on Page 55, ‘the Committee were aware that the Community Council had started their own delivery service and played a significant role in providing the residents of Mid Calder with a prescription collection and delivery service, due to other local pharmaceutical services being overrun’. Whilst we all appreciate and acknowledge the support the Community Council gave to residents and pharmacies during this time, it should be noted that this was in response to the Scottish Government’s Pandemic Plan and was not just limited to pharmacies. Humanitarian hubs were set up across the whole of Scotland to play their part in the fight against

COVID and the restrictions in place, which included, getting the weekly shopping to residents, prescription deliveries and assisting the population affected by the global pandemic. Patients using these hubs/community councils to collect prescriptions on their behalf should in no way be seen as inadequacy of service from their existing pharmacy given the unprecedented challenges the COVID pandemic has put on the country and businesses. Pharmacies have been at the frontline, doors open every day, increasing the amount of deliveries they do and the amount of time they spend doing them, they have been the lifeline for many patients and we would not like to think the committee would use this as one of the reasons to decide services to the neighbourhood were inadequate when we were the most accessible Healthcare Professional at a time when others were closing their doors.”

- 5.7.1. The PPC acknowledged that all of the 8 pharmacies were providing the core services, and it was also noted that delivery was not a core service.
- 5.7.2. The PPC acknowledged that the Community Council had started the delivery service prior to the pandemic due to inadequacy by other pharmacies, following delays faced when patients were able to speak with their GP or were unable to receive prescriptions timeously. The PPC commended the Community Council (who had stepped up and increased delivery of patients' prescriptions during the Covid-19 pandemic) but putting aside the Covid-19 situation, the PPC noted that the CAR had been conducted in 2016 and had shown there were pre-existing issues with the current pharmaceutical services.
- 5.7.3. In relation to the CAR, the PPC acknowledged that there had not been many positive comments from respondents relating to the current provision of pharmaceutical services, and had also noted the statement from the Applicant that many residents had experienced difficulties getting through to the pharmacies on the telephone and had waited long times to receive their prescriptions.
- 5.7.4. The PPC had acknowledged challenges for disabled access to some of other pharmacies in relation to availability of disabled parking spaces and access to the pharmacies, some of which required walking upstairs from the car park.
- 5.7.5. The PPC emphasised the importance of pharmacists being able to utilise all the tools available to them to the best effect - both digital and face to face.

- 5.7.6. The PPC dismissed the Appellants' suggested factual inaccuracy. The PPC stated that the current pharmaceutical services were adequate because of (a) disabled access challenges to some pharmacies in relation to parking and access via stairs (b) CAR respondents had stated challenges to get through to pharmacies on the telephone and had experienced delays in obtaining their prescriptions
- 5.8. **Viability-STATEMENT** "On Page 56, I would like to clarify the actual answer to the question around viability, whilst it would not affect the viability of Morrisons if the application was granted, it may result in staffing levels reducing to reflect any decrease in business."
- 5.8.1. The PPC acknowledged that viability would be affected by a change in population and had taken into consideration the number of housing developments since the Consultation had originally been undertaken in 2016. It was noted that some developments were under construction or had been completed, whilst some were still in the planning stage, which had also been highlighted by the Community Council.
- 5.8.2. It was also acknowledged that not all residents in a housing development would necessarily be pharmaceutically deprived, or they may work outwith the area and obtain their pharmaceutical needs at a different location.
- 5.8.3. The PPC dismissed the Appellant's claim of factual inaccuracy and noted that the Appellant had made a statement rather than a claim of any factual inaccuracies. The PPC referred to P38 of the PPC Minutes of 13 April, following a question from G Stuart, where F Frame had indicated that an additional pharmacy would not affect his Pharmacy's viability but would affect how many staff they had on a day to day basis. The PPC had taken note of this at page 48 and 56. The PPC had considered the daily pharmacy staff numbers that may be required and concluded that, with the increase in housing developments and additional population, and had concluded that it would not affect the viability, and the original statement stands.
- 5.9. **Levels of Car Ownership STATEMENT**– "The applicant stated in their submission to the PPC (paragraph 3, page 8 of the meeting minutes) that: 'The important thing is that according to the census in 2011 living in the neighbourhood there are nearly 900 people living with long term health conditions, 370 pensioners and just under 200 households without access to any car.' Mr Scott Jamieson representing Boots also presented to the figures from the 2011 census for car ownership that

indicated over 90% of households in the Mid Calder locality had access to a private vehicle. This equates to 110 households having access to no car or van at the time of the census. Both the applicant and interested parties would seem to agree that the majority of households in Mid Calder have access to a vehicle. However, when making their decision, the PPC stated on page 46 that: ‘The Committee agreed that the population was not particularly deprived, however were surprised to note that the Applicant has stated that according to the 2011 census there were only 200 households with access to any car. Although the Committee noted that this figure was disputed by an interested party, it seemed reasonable to the Committee that as cars were used to take people to work, there could be lots of people without access to a car’ This figure was repeated again on page 54 of the decision. Whilst the applicant may have presented car ownership data in several ways, there appears to have been a misinterpretation of this information with actual levels of car ownership being considerably higher than stated by the Committee. We submit that a misunderstanding of the information presented may have led the panel to incorrectly considering the ability of patients to access the existing services.”

It was noted that the figures quoted from the 2011 census had been provided orally on the day of the PPC on 13 April 2021 by both the Applicant and Interested Parties.

- 5.9.1. The PPC acknowledged the minuting error in relation to the reference to 200 households. – ie the Minutes should have stated that 200 households were **without** access to a vehicle, against the statements in the Minute on page 46 and 54 of the 13 April 2021 that there were “only 200 households **with** access”.
- 5.9.2. The PPC stated that it was feasible that many households could be without access to a vehicle if another household member used a vehicle to go to work outwith the area (who may also obtain pharmaceutical services outwith the area). The high level of car ownership was noted. It was also noted that whilst 370 was a relatively low number of pensioners, not all of whom would require pharmaceutical interventions.
- 5.9.3. The PPC stated that one of the key issues was accessibility to more local services, regardless of health conditions or age. The PPC emphasised the need to be more environmentally friendly and for residents to have more local services available within a short walk or cycle - and noted that Scottish Government had committed to work with local government to take forward ambitions for 20 Minute

Neighbourhoods, as outlined in the Programme for Government published in September 2020.

5.9.4. The PPC noted that in their discussion on 13 April 2021, they had discussed bus routes and frequency, and car parking availability, including disabled access to the existing pharmacies within the 3.5 mile area.

5.9.5. The PPC acknowledged that 10 years on from the 2011 census, although there was no current data on which to benchmark the current position (since the next census is not until 2022), the PPC had agreed that the dynamics of car usage, and population demographics will all have changed since 2011 with more car usage, an increasing elderly population, and more young people moving to the area.

5.9.6. The PPC acknowledged the inaccuracy made in the Minute of 13 April 2021 in relation to the number of households with access to vehicles. However, the PPC concluded that more emphasis should be placed on more local services being available as outlined in the Scottish Government's commitment to take forward ambitions for the 20 minute neighbourhood as outlined in the Programme for Government. The PPC stood by the decision that they had made.

6. The Legal Test

6.1. The PPC considered Regulation 5(10) "An application shall be granted if the Board or NHS Trust is satisfied that the provision of pharmaceutical services at the premises is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located".

6.2. Neighbourhood

6.2.1. The PPC confirmed that they were content with the natural boundaries that had been identified as the neighbourhood drawn up by the Applicant in 2016 which remained current and which had been agreed at the 13 April 2021 PPC. The boundaries identified were :

North : Calder Park Road / River Almond

South : Murieston Water / Greenfield Land to Lizzie Brice Roundabout

West : Livingston Road A899

East: Pumpherston Road B8046

6.3. Existing Services in the Neighbourhood

- 6.3.1. The PPC noted there were no pharmaceutical services or health centre within the defined Neighbourhood. However, there were 8 pharmacies within 3.5 miles that provided pharmaceutical services into the Neighbourhood that offered a full range of core and local services, including a prescription collection and delivery service. It was acknowledged that delivery was not a core service. The closest pharmacy was Lindsay & Gilmour based in East Calder which was one mile away.

6.4. Adequacy of Existing Provision of Pharmaceutical Services

Error in Law of the PPC on 13 April

- 6.4.1. The Chair restated NAP Chair's statement that the PPC on 13 April 2021 had made an error in law when considering whether existing pharmaceutical services were adequate (paragraph 5.1 of the NAP Decision) The NAP Chair had stated that the PPC was required to consider whether there was evidence of inadequacy, not whether there was evidence of adequacy. Accordingly, the NAP Chair remitted the matter back to the PPC to consider (paragraph 5.2 of the NAP Decision).
- 6.4.2. The PPC acknowledged the error in law due to a minuting mistake from the Minutes of 13 April 2021 that "the Committee concluded that there was not enough evidence provided to demonstrate adequacy of the existing pharmaceutical services in and to the defined neighbourhood".

Adequacy

- 6.4.3. The PPC acknowledged that the pandemic had affected all NHS Lothian residents and were cognisant that pharmaceutical services had remained open during both lockdowns and recognised the significance of the services they had provided.
- 6.4.4. The PPC noted that in the PPC of 13 April 2021, both the Applicant and Community Council had stated that there was inadequate pharmaceutical provision in the area which had been disputed by the other Interested Parties. The PPC had also noted the comments by respondents to the CAR relating to inadequacy of current pharmaceutical service.
- 6.4.5. The PPC discussed the access route to the nearest pharmacy in East Calder which was one mile distant, along a footpath which was poorly lit, poorly maintained and the footbridge was not adequate to permit wheelchair and pram access, which equated to inadequacy of access.

- 6.4.6. The PPC noted the increase in vaccination programmes, not just for ‘flu, and were mindful of Scottish Government’s ambition for the 20 minute neighbourhood for residents to access services within a 20 minute walk or cycle ride. The PPC also acknowledged the digital services of Near me and Pharmacy First, but emphasised the increased demand and need for Face to Face services, especially when residents were unable to get GP appointments easily.
- 6.4.7. The PPC referred to the NHS Lothian Provision of Pharmaceutical Care Services Delivered via Community Pharmacy 2020 document, section 3.2 of the Plan, which states that although there is no standard as to the number of populations that should be served by a pharmacy, West Lothian has the highest population per community pharmacy (5548) in NHS Lothian and it was noted that this was higher than the Scottish figure of 4230 patients per pharmacy. The PPC remarked that the figures raised concerns of inadequacy and therefore the need for further pharmaceutical services in West Lothian.
- 6.4.8. The PPC confirmed that NHS Pharmacy First Scotland providers are obliged to provide the right environment to allow pharmacists to provide professional clinical care as they consider appropriate to the patient and they agreed that NHS Pharmacy First Scotland is designed primarily as a face-to-face service with consultations taking place in person within pharmacy premises and as a result the pharmacist will provide lifestyle advice and support to manage minor conditions including treatments and possible referrals. Since the introduction in 2020 of NHS Pharmacy First Scotland, which is the biggest change to the community pharmacy framework in recent years, the PPC fully recognises that there is now a need to ensure pharmaceutical capacity for residents in the neighbourhood going forward.
- 6.4.9. The PPC acknowledged that NHS Pharmacy First Scotland providers are obliged to provide the appropriate environment to allow pharmacists to provide professional clinical care as they consider appropriate to the patient and they agreed that NHS Pharmacy First Scotland is designed primarily as a face-to-face service with consultations taking place in person within pharmacy premises and, as a result, the pharmacist will provide lifestyle advice and support to manage minor conditions including treatments and possible referrals. Since the introduction in 2020 of NHS Pharmacy First Scotland (which is the biggest change to the community pharmacy framework in recent years) the PPC recognised that there is now a need to ensure pharmaceutical capacity for residents in the neighbourhood going forward

- 6.4.10. In relation to Question 6 of the CAR, the PPC noted that although the East Calder pharmacy had made many systematic changes recently, they had stated that they were not able to refit the pharmacy at present. The PPC concluded that that the pharmacy space may be inadequate for the growing population, including the residents of Mid Calder who used the East Calder pharmacy as their nearest one. In addition, the Committee remarked that the East Calder GP Practice patient list is growing year on year. The PPC noticed that during April 2018 to 2020 there was an increase of 514 patients on the East Calder GP Practice list. Additionally, the PPC was cognisant of the current house building programme in East Calder and the impact on the increasing GP patient list and recognised that the residents of Mid Calder would be impacted when using pharmaceutical services at the East Calder pharmacy due to increased patient numbers.
- 6.4.11. At their site visits, the PPC had noted accessibility issues in entering the proposed premises. They noted a step into the premises, however the Committee members were satisfied that the Applicant had provided an oral commitment to ensure that adjustments would be made to ensure that the premises were DDA compliant. The PPC emphasised that the access route into the pharmacy was a challenge, and which highlighted that the nearest pharmacy was not DDA compliant and inadequate. It was also noted that although the proposed premises did not currently have a disabled parking space, the PPC were satisfied with statements from the Mid Calder Community Council representative, who had confirmed that the Applicant's application would be approved prior to the shop fitting being completed, in order to ensure the necessary disabled parking space was approved.
- 6.4.12. The PPC also took cognisance of the Mid Calder Community Council representative's comments that the provision of a new pharmacy had been discussed at every council meeting and that the Council recognised that the Mid Calder elderly residents want to maintain independence. As per question 2 of the CAR, the PPC were aware that the Community Council had started their own delivery service and played a significant role in providing the residents of Mid Calder with a prescription collection and delivery service, due to other local pharmaceutical services being overrun. In particular, the PPC noted their involvement, especially for the elderly and infirm, due to difficulties in contacting pharmacies over the telephone and recognised that this was a necessary provision offered by the community council for pharmaceutical services to their local residents. The PPC also recognised that delivery is not a core service.

- 6.4.13. In referring to question 2 of the CAR, the PPC remarked that the very narrow bridge to East Calder is particularly dangerous for wheelchair users, elderly, and mothers with prams. The PPC concluded that the pathway to East Calder was in a conservation area, therefore it could never be enlarged/improved. Furthermore, the PPC noted that even with a collection and delivery service from other pharmaceutical service providers, for those who were able and wanted to walk to pharmacies out with their neighbourhood, safety relating to lighting between pharmacies in Dedridge and Craigshill is material for mothers with prams, elderly and wheelchair users.
- 6.4.14. The PPC accepted that there are other travel choices for residents of Mid Calder to get pharmaceutical services but noted that one bus service to the nearest pharmacy (East Calder) offered an indirect service to Langton Road, adding an additional walk for patients that could be infirm/unwell.
- 6.4.15. The PPC also recognised that there were other buses to other parts of Livingston, but this may not be the most preferred option for residents of Mid Calder as the journey may be only a short distance in terms of miles but the bus route was not direct and went through various housing estates and other pickup points which created a longer journey time.
- 6.4.16. The PPC noted the Lothian Area Pharmaceutical Committee did not object to the application.
- 6.4.17. The PPC remarked that fewer car journeys to access adequate pharmaceutical services by using a pharmacy within the neighbourhood would also help the environment.
- 6.4.18. The PPC noted that the Applicant, in his current role, has palliative care experience and considered that his personal training would benefit the residents of Mid Calder, because the only other local palliative specialist is based at the Morrisons Pharmacy in Dedridge.
- 6.4.19. In referring to question 4 in the CAR, the PPC discussed the changes that have come about from the introduction of NHS Pharmacy First Scotland and the relevance of “direct consultation and advice” that will now be part of all pharmacy applications post 2020.
- 6.4.20. The PPC considered the viability of other local pharmacies and reviewed resident numbers of over pension age (9%) and under 10 years old (10%) within Mid Calder, along with local pharmacy dispensing numbers

and prescriptions issued by local health centres. As well as the 900 residents with long term medical conditions, the PPC concluded that a new pharmacy would not affect other local pharmacies viability. The PPC also considered the new house building programme, and agreed that this would alleviate any shortfall if this pharmacy application was granted. It was noted that G Frame had also commented that an additional pharmacy would not affect Morrison's overall viability.

- 6.4.21. The PPC remarked that since the pandemic's arrival and the introduction of NHS Pharmacy First Scotland in July 2020, there had been a significant change to the provision of pharmaceutical services, and that residents/patients of Mid Calder now had a necessary right to pharmaceutical services as described in the Scottish Government's commitment to "increasing access to community pharmacy as the first port of call for managing self-limiting illnesses and supporting self-management of stable long term conditions, in hours and out of hours".

7. Decision

7.1. Summary of how the PPC considered the Factual Inaccuracies raised by the Appellants

7.1.1. Use of Wholesalers (paragraph 5.1).

- 7.1.1.1. The PPC note this as a minuting error in the Minutes of the PPC held on 13 April 2021.

7.1.2. J Gajree statement (paragraph 5.2)

- 7.1.2.1. J Gajree acknowledged she had made a personal observation and that there was no supporting evidence. However, although it was a personal view, the PPC noted that this did not alter their Decision.

7.1.3. East Calder Pharmacy Systemic Changes (paragraph 5.3).

- 7.1.3.1. The PPC The PPC dismissed the Appellant's suggested factual inaccuracy. Whilst acknowledging that although Lindsay & Gilmour had not stated that their premises **were** inadequate due to the fact that they were unable to conduct a refit, the PPC stood by their statement on page 55 that they recognised that the pharmacy space **may** be inadequate for a growing population since Lindsay & Gilmour were unable to refit their premises following the systemic changes.

7.1.4. East Calder DDA compliance inadequacies. (paragraph 5.4)

- 7.1.4.1. The PPC dismissed the Appellants' suggested factual inaccuracy and reaffirmed their previous statement that the East Calder premises were

not DDA compliant due to the challenge of access route into the premises.

7.1.5. Face-to-face vs NHS Near Me (paragraph 5.5)

7.1.5.1. The PPC dismissed the Appellants' assertion of factual inaccuracy. The PPC stated that whilst they recognised the importance of digital technology, not everyone had access. The PPC emphasised the value and significance of Face to Face consultations for individuals who did not have access to digital technology.

7.1.6. Pharmaceutical Care Services Plan (paragraph 5.6)

7.1.6.1. The PPC dismissed the Appellants' assertion of factual inaccuracy. The PPC confirmed that they had taken full account of the Pharmaceutical Care Services Plan and that although nowhere within it did it state that there was any inadequacy within NHS Lothian, independent contractors were welcome to apply and each application was considered on an individual basis.

7.1.7. Adequacy (paragraph 5.7)

7.1.7.1. The PPC dismissed the Appellants' suggested factual inaccuracy. The PPC stated that the current pharmaceutical services were inadequate because of (a) disabled access challenges to some pharmacies in relation to parking and access via stairs (b) CAR respondents had stated challenges to get through to pharmacies on the telephone and had experienced delays in obtaining their prescriptions

7.1.8. Viability (paragraph 5.8)

7.1.8.1. The PPC dismissed the Appellant's claim of factual inaccuracy and noted that the Appellant had made a statement rather than a claim of any factual inaccuracies. The PPC referred to P38 of the PPC Minutes of 13 April, following a question from G Stuart, where F Frame had indicated that an additional pharmacy would not affect his Pharmacy's viability but would affect how many staff they had on a day to day basis. The PPC had taken note of this at page 48 and 56. The PPC had considered the daily pharmacy staff numbers that may be required and concluded that, with the increase in housing developments and additional population, and had concluded that it would not affect the viability, and the original statement stands.

7.1.9. Car Ownership (paragraph 5.9).

7.1.9.1. The PPC The PPC acknowledged the inaccuracy made in the Minute of 13 April 2021 in relation to the number of households with access to vehicles. However, the PPC concluded that more emphasis should be placed on more local services being available as outlined in the Scottish

Government's commitment to take forward ambitions for the 20 minute neighbourhood as outlined in the Programme for Government. The PPC stood by the decision that they had made.

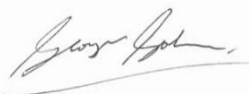
G Stuart, J Gajree and left the meeting

7.2. Decision

- 7.2.1. The PPC addressed the factual inaccuracies as requested by the NAP Chair in the NAP Decision of 31 July, 2021 at Clause 7.1 above which did not materially alter their Decision.
- 7.2.2. The PPC had addressed the questions of adequacy as summarised at Clause 6.
- 7.2.3. In accordance with the procedure on applications contained within paragraph 6, Schedule 4 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, as amended, the PPC, for the reasons set out above, the PPC concluded that the existing pharmaceutical services into the neighbourhood to be inadequate.
- 7.2.4. Accordingly, the decision of the PPC was that the provision of pharmaceutical services at the premises was necessary to secure adequate provision of pharmaceutical services within the neighbourhood in which the premises were located by persons whose names were included in the pharmaceutical list, and accordingly the application was approved. This decision was made subject to the right of appeal as specified in Paragraph 4.1, Regulations 2009, as amended

The meeting closed at 13:00

Signed



G Gordon
Chair, NHS Lothian Pharmacy Practices Committee
Date: 17 November 2021